

Exhibit 3

Michael Scuello

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IN THE UNITED STATES DISTRICT COURT
for the SOUTHERN DISTRICT of NEW YORK

CHRISTA McAULIFFE INTERMEDIATE	:	
SCHOOL PTO, et al.	:	
Plaintiffs	:	
	:	
-VS-	:	NO.
	:	1:18:cv:11657 (ER)
BILL de BLASIO, in his	:	(OTW)
official capacity as MAYOR of	:	
NEW YORK CITY, et al.	:	
Defendants	:	

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TUESDAY, JUNE 8, 2021

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Zoom Video Conferencing virtual remote deposition of MICHAEL SCUELLO, taken pursuant to notice, held in New York, New York, on Tuesday, June 8, 2021, beginning at 11:08 a.m. Eastern time, before Susan L. Singlar, Professional Court Reporter and Notary Public of the Commonwealth of Pennsylvania, there being present.

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1 A. I do.

2 Q. A single no observed negative effect on
3 Asian students, you're talking about the percentage
4 of Asian students admitted to the specialized high
5 schools?

6 A. That's correct, as a group.

7 Q. And you're including all of the
8 specialized schools as a whole; correct?

9 A. That's correct.

10 Q. Looking now to page three of Exhibit-2,
11 the second sentence at the top, ignoring the
12 citation, it begins: The data shows.

13 Do you see that?

14 A. Uh-huh.

15 Q. The data shows that the percentage of
16 the offers increased for Asian students at six of the
17 eight schools and decreased at two schools,
18 Stuyvesant and Bronx Science.

19 Did I read that correctly?

20 A. That's correct.

21 Q. You agree that that's what the data
22 shows for the 2019/2020 school year?

23 A. That is what the data shows, the Dr.
24 Vigdor percentage.

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1 Q. And near the bottom or maybe two thirds
2 of the way through that paragraph, nine lines up from
3 the bottom, if I'm counting correctly, there's a
4 sentence that begins: Stuyvesant.

5 Do you see that?

6 A. Yes.

7 Q. And you concluded that offers to Asian
8 students to attend Stuyvesant decreased by .7 percent
9 compared to what it would have been without the
10 Discovery changes.

11 A. Based on Dr. Vigdor's process, yes.

12 MS. SPRAYREGEN: Objection to form.

13 You can answer.

14 THE WITNESS: I'm sorry?

15 MS. SPRAYREGEN: I said objection to
16 form.

17 You can answer.

18 THE WITNESS: Yes, based on Dr.

19 Vigdor's analysis.

20 BY MR. ROPER:

21 Q. And your understanding is that is not a
22 projection but represents actual Asian students who
23 were not given offers to Stuyvesant because of the
24 Discovery changes?

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1 A. Well, it is a projection because the
2 2018 algorithm wasn't used in 2020.

3 Q. But it is an actual -- it represents
4 actual students who would have been given offers to
5 Stuyvesant under the 2018 algorithm but were not
6 because of the Discovery changes?

7 A. That's correct.

8 Q. I'm sorry. I didn't hear your answer.

9 A. Yes. I said: That's correct, yes.
10 Based on his analysis, yes.

11 Q. And do you -- I'll withdraw that.

12 Looking at the next sentence:
13 Similarly, offers to Asian students to attend Bronx
14 Science decreased by 1.4 percent under the Discovery
15 program changes compared to what it would have been
16 under the 2018 algorithm.

17 A. Based on Dr. Vigdor's, yes.

18 Q. Would you agree that Stuyvesant is the
19 most competitive of the specialized high schools?

20 MS. SPRAYREGEN: Objection to form.

21 You can answer.

22 THE WITNESS: I believe you've asked
23 this already. It is the school that has the
24 highest criteria for which students need to

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1 meet to get into. I'm not sure if that means
2 more competitive or not, but it does have the
3 highest admission criteria based on SHSAT
4 scores.

5 BY MR. ROPER:

6 Q. If you could look up to about nine
7 lines down in that same paragraph, there's a sentence
8 that begins: He also states correctly.

9 Do you see that?

10 MS. SPRAYREGEN: Excuse me.

11 Are you still in the first full
12 paragraph on page three, nine lines from the
13 top of that paragraph?

14 THE WITNESS: He also states it
15 correctly, right.

16 BY MR. ROPER:

17 Q. That sentence: Stuyvesant is the most
18 competitive school. If a student does not list
19 Stuyvesant as his or her first choice, then she or he
20 wouldn't receive an offer to Stuyvesant.

21 Do you see that?

22 A. Yes. Yes.

23 Q. So you said here that Stuyvesant is the
24 most competitive school; correct?

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1 A. That's right.

2 Q. As to Stuyvesant and Bronx Science, the
3 changes to the -- would you agree that the changes to
4 the Discovery program did have a negative effect on
5 Asian students compared to if the 2018 algorithm were
6 used?

7 A. Based on his analysis, yes.

8 Q. And it decreased the number of Asian
9 students given offers to attend those two schools?

10 A. Invited to attend those two schools,
11 yes.

12 Q. Would you agree that the Asian
13 population in New York City is heterogeneous?

14 A. Yes.

15 Q. It comprises a number of different
16 nationalities?

17 A. Yes.

18 Q. Or at least countries of national
19 origin?

20 A. Yes.

21 Q. For example, Chinese; Korean; Japanese;
22 Filipino; Malaysian; Indian and Pakistani?

23 A. Yes.

24 Q. Those would all be considered Asian?

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1 A. That is correct.

2 Q. It decides who to send the invitations
3 to; correct?

4 A. Yes.

5 Q. And it sends out the invitation
6 letters?

7 A. Yes.

8 Q. Is it true that the Department of
9 Education can't control whether the student or the
10 student's family submits an application to
11 participate in the Discovery program?

12 MS. SPRAYREGEN: Objection.

13 You can answer.

14 THE WITNESS: They don't have direct
15 control over it, no.

16 MR. ROPER: What the basis for the
17 objection, Sharon?

18 MS. SPRAYREGEN: Could you restate the
19 question?

20 MR. ROPER: Susan, can you read back
21 the question?

22 * * * * *

23 (Whereupon, the requested portion of
24 the testimony was read back by the Court

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1 Reporter as follows:

2 Question. Is it true that the
3 Department of Education can't control whether
4 the student or the student's family submits an
5 application to participate in the Discovery
6 Program?.)

7 * * * * *

8 MS. SPRAYREGEN: That's not -- you said
9 is that something he had already testified to?

10 MR. ROPER: I'm sorry. You broke up.
11 I'm just asking the basis for the objection.

12 Is it form, privilege?

13 MS. SPRAYREGEN: Form.

14 BY MR. ROPER:

15 Q. Mr. Scuello, is it also true that the
16 Department of Education cannot control whether the
17 student or student's family submits documentation
18 showing that the student is individually
19 disadvantage?

20 A. No. They can't control it.

21 Q. The Department of Education can't force
22 a family to submit an application to participate in
23 the Discovery program; correct?

24 A. Correct. Yes.

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1 Q. And can't force the family to submit
2 documentation of being individually disadvantage?

3 A. Correct.

4 Q. Once the invitation letter goes out
5 from the Department of Education, is there anything
6 more that the Department of Education does to
7 encourage or remind the family to submit the
8 application or documentation?

9 A. Not that I am aware of.

10 Q. You state that before a student can be
11 accepted to the Discovery program the student's
12 middle school counselor or principal also has to
13 certify that the student is recommended for the
14 program; correct?

15 A. That is my understanding, yes.

16 Q. What is the basis of that
17 understanding?

18 A. It's the policy stipulated on the
19 website.

20 Q. On what website?

21 A. The New York State Department of
22 Education website.

23 Q. Did you confirm your understanding of
24 that step with the Department of Education?